

How Justice Came to Webster County

Maude Lauderdale

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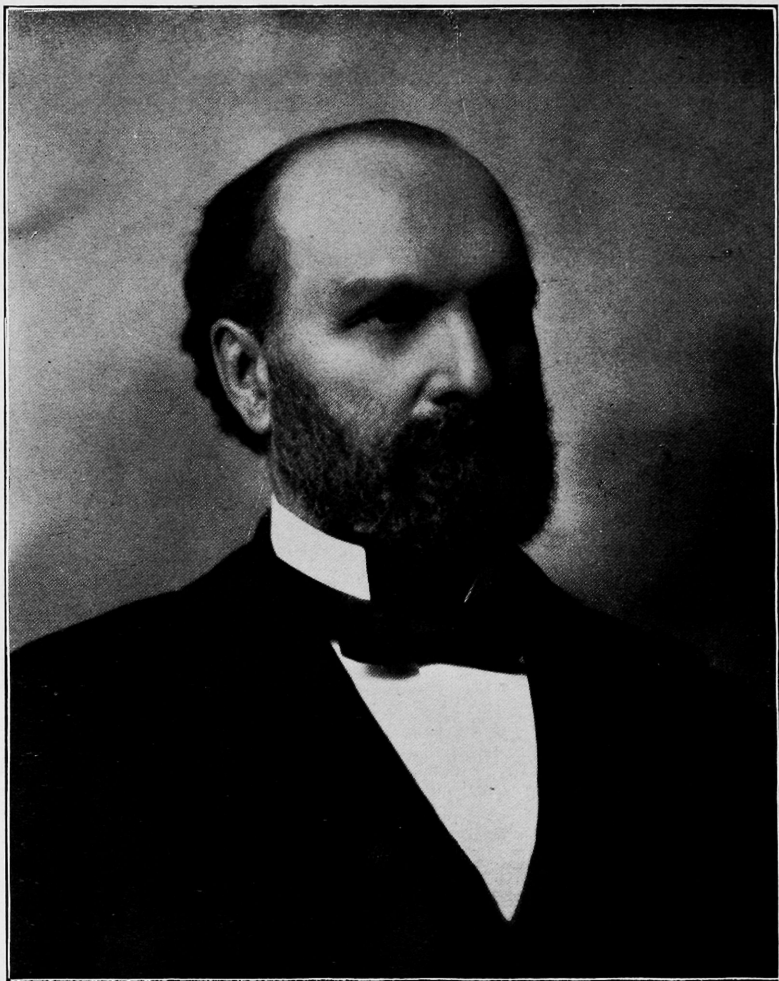
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JOHN F. DUNCOMBE

Lawyer — Soldier — Legislator

Lecturer — Editor

Distinguished Leader of the Bar

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HOW JUSTICE CAME TO WEBSTER COUNTY

Compiled by MAUDE LAUDERDALE

[This article is presented in the hope that it will help perpetuate the memory, not only of the great men who have graced the Webster county bar, but other able and worthy individuals of the Eleventh judicial district who were associated with them, and whose memory might grow dim with the passing of the years.

In the writing of these biographies no claim is made to originality. In many instances the material used has been the work of others having more direct access to individual data and records. For sake of brevity, where such memoranda was found to be too voluminous for this article, selection and condensation has been employed, usually to obtain objectivity by omission of some eulogy, but retaining that portion which seems to best indicate the character, eccentricities and accomplishments of the man, as well as the controlling events of his life, preference in detail being given to those of the earlier period.

Likewise, the record of the establishment of the courts, the organization of judicial districts, and the selection of members of the judiciary, has been gleaned from competent historical authorities and publications, and individually credited in the official copy presented to the Webster county bar association, although not documented herein. The writer takes credit only as a compiler of the record, though charged in each instance with accuracy in faithful presentation of details.]

WHEN JUSTICE, IF NOT LAW, FIRST CAME

The new state of Iowa was but a few days old when Justice, if not Law, came to Webster county.

On the north bank of the Boone river, near where it empties into the Des Moines river, in the southeast corner of the county, stood the little cabin in which Henry Lott, the first white settler, lived with his family. When he came is not known, but he was found here in the summer of 1846 by hunters from Boone county. He was engaged in the laudable business of selling whiskey to the Indians, stealing their ponies and running them off to the south. He cultivated but little land and it has been said that his cabin was a rendezvous for horse thieves. The Sioux Indians had become suspicious of him and ordered him to leave within a certain time. Lott did not leave, and when the given time had expired, the Indians came again, raided the cabin and killed his livestock. Lott fled to the nearest settlement.

This was the Indians' way of enforcing law.

THE CLAIM CLUBS

Three years later, in 1849, about fourteen families settled in the vicinity of the Boone forks. They were our first actual settlers. They formed a republic of their own. Justice was administered in their own way. Everyone read the code of Iowa and expounded the law to suit himself, but they were law-abiding people. They were representative pioneers of their day. They made their own laws and obeyed them.

It was not long, however, until a few troublesome characters came in and claim jumping began. Then it was that the pioneers formed claim clubs for protection.

Beginning with 1833, there sprung up in Iowa provisional civil townships, in other words, the claim clubs or associations. These were formed in all parts of Iowa, and while they differed in minor details, their main features were the same. The object was to prevent claim

jumping. The rules and regulations of the claim clubs of early Iowa may be said to be the beginning of its civil government. The customs governing the holding of claims were well and honestly observed. These customs, codified into resolutions and bylaws, became the first written laws of the pioneers. Squatter constitutions they were, but they were law.

It may seem strange to class the customs of the pioneers among the early laws of Iowa. The first settlers were squatters, and under the Federal law they were trespassers. They were preemptors, or buyers-ahead-of-time, and the claim clubs secured to them their "pre-emption rights," as seen in so many early deeds. These rights directly violated the Federal laws prohibiting all persons from occupying any portion of the public land until after the Indian title had been extinguished and the lands had been surveyed and regularly opened for public sale. Some clubs, like the claim club of Fort Dodge, were organized after Iowa had been admitted into the Union. The land in Webster county was not surveyed or the United States land office opened in Fort Dodge until November 5, 1855. Claim jumping had become so frequent that it was necessary for mutual protection for the settlers to form a claim club.

The manuscript record of the claim club of Fort Dodge, discovered among the papers of Governor Carpenter, are now carefully preserved in the Historical department of the state at Des Moines. The records of the claim clubs of Fort Dodge and Johnson county are the only complete records in existence.

It is said that the claim club of Fort Dodge found it necessary to arrest the progress of claim jumping by force. A good whipping and a coat of tar and feathers applied to some of the jumpers had the effect of putting a stop to their operations near Fort Dodge.

The prominence which the claim clubs gave to the homestead and its rights probably suggested our present homestead exemption laws.

The law of the claim clubs of Iowa was carried by settlers from Iowa to the new state of Nebraska and formed the basis of the first law there.

COUNTY COURT AND JUDGES

The year 1851 marks the inauguration of the county judge system in Iowa. This system served its purpose admirably in counties where able and honest men served as county judges, as it was efficient and economical, but in each county the judge was a local autocrat and had irresponsible and almost absolute power and authority which the state does not entrust even to governors. This system took all the power out of the hands of the people and centered it in the county judge. He was the executive and judicial officer of the county. He had all the powers that were afterward lodged in the board of supervisors, probate judges and auditors.

As Webster county has changed its name and boundaries several times, a brief outline of its history will afford a better understanding of conditions during the county judge period.

On February 5, 1851, the year the county judge system was inaugurated, the Third General Assembly created about fifty new counties out of the undivided western portion of the state, among them Risley and Yell. Risley county, named in honor of a Colonel Risley, killed in the Mexican war, embraced what is now Hamilton county. Yell county, named for Col. Archibald Yell, killed at the battle of Buena Vista in the Mexican war, embraced all of what is now Webster county, except the north tier of townships which was a part of Humboldt county. On January 12, 1853 the name "Risley" was changed to "Webster", so that Hamilton county was the first to bear the name of Webster.

With the exception of the garrison at Fort Dodge, all the settlers in the two counties were located in the immediate vicinity of Boone forks and they really formed one large settlement. When they discovered that the divid-

ing line between the two counties ran through the settlement, they petitioned the legislature at the session of 1852-3, to pass a law uniting the two counties. By act of the legislature, approved January 22, 1853, the counties of Risley and Yell were united into one county to be called Webster.

FIRST JUDGE ELECTED

On April 4, 1853, Webster county was organized and an election held at which William Pierce was elected the first county judge. The officers elected were to hold their offices until the general election to be held the first Monday in August, 1853. The next election was held in Homer, which had been made the county seat. William Pierce was again elected county judge and John H. Cofer prosecuting attorney. It is interesting to know that William Pierce was one of the judges of the election.

In February, 1855, Judge Pierce resigned, and in April, 1855, William N. Meservey was elected to serve for the balance of his term, and Granville Berkley was elected prosecuting attorney. In August, 1855, when Meservey's term for filling the unexpired term of Judge Pierce should have expired, the citizens elected John D. Maxwell county judge and Charles B. Richards prosecuting attorney. But Judge Meservey and his Homer friends refused to give up the records, claiming his right to serve two years from the time he was elected to fill the vacancy. Proceedings were commenced against Meservey in the Webster county court, when a change of venue was taken to try the case in Pottawattamie county, and there the matter ended. No one felt disposed to incur the expense of lawyer's fees to try the case, and Judge Meservey continued to hold the office until full two years expired.

COUNTY SEAT MOVED TO FORT DODGE

It was during Judge Meservey's administration that the county seat was moved from Homer to Fort Dodge.

How Fort Dodge won the battle is one of our most cherished stories of early-day politics.

The Sixth General Assembly passed an act, approved December 22, 1856, by which that part of Webster county which had originally been Risley county was made into a new county to be called Hamilton. This act went into force on January 8, 1857.

At the first election held after the county seat was moved to Fort Dodge, and Hamilton county created, Samuel Rees was elected county judge and served until August, 1857, when he resigned. On August 3, 1857, Luther L. Pease was elected county judge and served two years.

On October 11, 1859, William N. Meservey was again elected county judge. He was followed by Lewis M. Olcott, who was elected on October 8, 1861; John L. Cheyney, who was elected on October 8, 1863; Isaac Young, who was elected on October 10, 1865; and James R. Strow, who was elected on October 8, 1867, and served until the county judge and county courts were abolished in 1868.

WEBSTER JUDICIAL DISTRICTS

Webster county first came under judicial supervision in 1852 when Yell county was attached to the Fifth judicial district which was composed of twenty-eight northern counties which had been created in 1851. At this time there were nine judicial districts in Iowa. The first judge who had jurisdiction in this county was Judge William McKay of Polk county.

Under the constitution of 1846, the Thirteenth judicial district was created in March, 1857 and Webster county was added on February 24, 1858.

In October, 1858, under the constitution of 1857, the State of Iowa was re-districted and divided into eleven judicial districts, the judges and district attorneys of which entered upon their duties on January 1, 1859. At

that time Webster county became a part of the Eleventh judicial district.

Chapter 61 of the Fourteenth General Assembly, approved April 18, 1872, provided that twenty-one counties, including Webster county, should constitute the Fourth judicial district. An act of the same general assembly, approved April 23, 1872 (just five days after the passage of Chapter 61 above mentioned had been approved), eliminated Webster county from its assignment to the Fourth judicial district and it was restored to the Eleventh judicial district where it remains.

CIRCUIT COURT OF WEBSTER COUNTY

Under the constitution of 1857, which was in force in 1868, the judicial districts were prohibited from having more than one district judge in one district. In 1868 there were twelve judicial districts in Iowa. Owing to the abolishment of the county court with their probate jurisdiction, and the increasing amount of litigation in the rapidly-growing state, twelve district judges were unable to expeditiously handle the business in the courts of the state. To solve this problem the Twelfth General Assembly in 1868 created a system of circuit courts and general term courts. Each district was divided into two circuits, with a judge for each circuit.

The Eleventh judicial district was divided into two circuits. Webster county was in the second circuit from 1869 to 1872, and Judge S. L. Rose was the judge during that time.

Finding that there were more judges than necessary to take care of the litigation coming into the courts, the legislature in 1872 reduced the number of circuits in Iowa one-half by making the boundaries of the circuits the same as the boundaries of the districts. Webster county then became part of the first circuit in which John H. Bradley was the judge from 1873 to 1880, and David D. Miracle from 1881 to 1886.

The circuit courts were courts of record and had the same officers as the district courts. The act passed in 1868 gave to the circuit courts original and exclusive jurisdiction of probate matters, of the issuing of marriage licenses, of all matters formerly under the jurisdiction of the county judge or county courts, and of appeals from justice and mayor's courts. Cases might be transferred from one court to another in the same county, and that was often done in Webster county in cases relating to the Des Moines river lands.

For eighteen years the circuit courts were a part of Iowa's judicial system despite what appears to have been a duplication of the duties of the district courts.

On April 10, 1886, the Twenty-first General Assembly abolished the circuit court and transferred its duties to the district court, providing an additional judge for each district.

JUDGES OF THE DISTRICT COURT

Someone has observed that the life of a community is determined by the character of its first settlers. Just so the men who presided over the courts of this district, by their worth, character and achievements, have done their full share in the development of the high standards of the district court in and for Webster county. Few have marred it.

William McKay became the first judge of the Fifth judicial district to which Yell county (now Webster) was attached in 1852. He is said to have been the first licensed lawyer in Polk county, or in central Iowa. He was elected as a Whig candidate. He served for five years and made a good record.

Judge McKay's successor was to be elected in 1854, the elections then being placed in the spring to keep them as much as possible out of politics. Judge McKay was nominated by the Whigs to be his own successor. The Democrats were somewhat divided as to the choice to be made. C. J. McFarland of Boone was among the lead-

ing candidates. After much wrangling, Phineas M. Casady received the nomination against his wishes and was elected. In a short time after his election Judge Casady resigned and the vacancy had to be filled by appointment. Governor Hempstead appointed C. J. McFarland, it is said for political reasons.

So far as the records show, neither Judge McKay nor Judge Casady ever held court within the limits of Webster county. Judge McFarland presided over the first court held in Webster county which was held at Homer in the fall of 1854. According to the customs in the west in early days, this court was turned into a grand frolic. Attorneys from Des Moines, Boonesboro, Fort Dodge, and Burlington were in attendance. Everyone, no matter what his qualifications were, could be admitted to the practice of law. Everyone who made an appearance from whom a "treat" could be extorted, was at once received. A great increase of members of the bar was effected at this court.

The next spring after the appointment of Judge McFarland by the governor, it became necessary to fill the position by election. Judge McFarland became the Democratic nominee and his opponent was Judge W. W. Williamson, who was supported by the Whigs. For weeks after the election the result was in doubt. The election was contested and the election board consisting of two Democrats and one Whig, finally awarded it to McFarland.

On April 6, 1857, James D. Thompson of Hardin county was elected judge of the Thirteenth judicial district to which Webster county was added on February 24, 1858.

At the October 12, 1858 election, John Porter of Hardin county was elected judge of the Eleventh judicial district, and William P. Hepburn was elected district attorney. Judge Porter continued to hold the office until he resigned in 1866.

The governor appointed Daniel D. Chase of Webster City to fill the vacancy caused by the resignation of Judge Porter, while John H. Bradley of Marshalltown was appointed district attorney.

At the expiration of Judge Chase's first term he was re-elected and continued to hold the office until 1874, when he was succeeded by Judge Isaac J. Mitchell of Boone county, who held the office for four years.

Judge Mitchell was succeeded by Judge James W. McKenzie of Franklin county, who was elected on July 10, 1878.

Henry C. Henderson of Marshalltown was elected judge on October 11, 1881, and was re-elected on November 7, 1882, and served until 1886.

In 1886 three judges for each district were provided for the district court, and at this time David D. Miracle of Webster City, John L. Stevens of Boone, and Silas M. Weaver of Iowa Falls were elected judges of the Eleventh judicial district. Judge Stevens was re-elected in 1890 and served until he resigned in 1892. Judge Weaver was re-elected in 1890, 1894 and 1898, and in 1900 was promoted to the supreme bench of Iowa. Judge Miracle died on July 27, 1888.

In the August following the death of Judge Miracle, David R. Hindman of Boone, was appointed to fill the vacancy and he continued to fill the position until he retired in 1898.

Upon the resignation of Judge Stevens, Norman B. Hyatt of Webster City was appointed judge by Governor Boies. Judge Hyatt was a Democrat in politics and, as the Eleventh district was strongly Republican, there was no hope of his re-election.

At the election in 1893, Benjamin F. Birdsall of Wright county was elected judge and served until October 1, 1900, when he resigned because of poor health. In 1898, Judge Hindman and Judge Birdsall were not candidates

and J. R. Whitaker of Boone and William S. Kenyon of Fort Dodge were elected judges.

In 1900, Judge Weaver was elected justice of the supreme court, and J. H. Richard of Webster City was elected to fill the vacancy thus caused.

In 1902, Judge Richard and Judge Whitaker were both re-elected. George W. Dyer of Nevada also served as judge in 1902. As Judge Kenyon was not a candidate, W. D. Evans of Franklin county was elected in his place.

In 1906, Judge Evans was re-elected and Chauser G. Lee of Ames and Robert M. Wright of Fort Dodge were elected judges to succeed Judge Richard and Judge Whitaker.

In 1908, Judge Evans was promoted to the supreme bench of Iowa and Charles E. Albrook of Hardin county was elected in his stead. Judge Albrook served until 1914 when he retired.

Judge Lee was succeeded in 1915 by Edward M. McCall of Nevada who was elected in the fall of 1914. Judge McCall served ten years on the bench until 1925, when he resigned.

Judge Albrook was succeeded by H. E. Fry in 1914, who is still serving.

Judge Wright was on the bench for sixteen years and retired at the first term of court in 1923. In 1922 Sherwood A. Clock of Hampton was elected his successor.

In 1917, a new judgeship was established, making four judges in the Eleventh district, and George D. Thompson of Webster City was elected judge. Judge Thompson died on February 25, 1928, while still on the bench.

O. J. Henderson of Webster City was elected judge to fill the vacancy caused by the death of Judge Thompson.

Upon Judge McCall's resignation in 1925, he was succeeded by B. R. Bryson of Iowa Falls. Judge Bryson

served one term and at the beginning of 1927 was succeeded by T. G. Garfield of Ames, who was advanced to the Iowa supreme bench in 1940.

In 1942, Dean W. Peisen and Dwight G. Rider were elected to succeed Judge Garfield and Judge O. J. Henderson.

In 1944, John M. Schaupp was elected to succeed Judge Rider who was not a candidate for re-election.

In 1948, G. R. Hill of Clarion was elected to succeed Judge Peisen who died on November 26, 1946.

Judges Fry, Clock, Schaupp and Hill are the present judges of the Eleventh Judicial district of Iowa at the close of 1949.

MEMBERS OF THE BAR

GRANVILLE BERKLEY, a native of Virginia, coming in the fall of 1852, was the first lawyer to settle within the present limits of Webster and Hamilton counties. Mr. Berkley and two other men located claims about nine miles north of Fort Dodge. They were the first white men to attempt to locate north of the fort. They commenced work on their claims; then the other two men quit and left Mr. Berkley alone. Surrounded by the Indians, he finally sold his claim and went down and settled in Yell township in the forks of the Boone river.

During the following winter he taught a school a short distance southwest of where the town of Homer afterward was located. The school was attended by pupils from both Risley and Yell counties. The school was closed for two weeks during the winter, while Mr. Berkley took a petition from the settlers to Iowa City, where the legislature was in session, praying for a county government and the consolidation of Risley and Yell counties. He managed matters so well that the act authorizing the consolidation and the organization of the new county of Webster was passed.

Mr. Berkley took an active interest in the organization of Webster county and was largely instrumental in locating the county seat at Homer. For the first three years after the county was organized, there is little doubt that he directed most of the public matters and dictated the county policy. He undertook to run county affairs and succeeded fairly well until John F. Duncombe of Fort Dodge and W. C. Willson of Webster City joined forces and carried things against him in 1856.

The town of Homer, having been platted and established as the county seat in the fall of 1853, Mr. Berkley built a house in Homer and moved his family into it. A post office had been established and he was appointed the first postmaster.

Among the first buildings built in Homer was a school-house erected by Mr. Berkley for the settlers, but some difficulty occurred about accepting the house. Berkley pocketed the key and refused admission until it should be accepted. A compromise was finally made and the house occupied the winter of 1854-5. It was there Judge McFarland held the first district court in this county, which was turned into a drunken frolic, and everyone, no matter what were his qualifications, could be admitted to the practice of law. At this court Granville Berkley was admitted to the bar. We are unable to learn where he received his legal training, if any, but it was said that he was a man well suited to be a "backwoods lawyer."

In 1854, Mr. Berkley was a candidate for state representative, but was defeated by Samuel McCall. At the April, 1855 election he was elected prosecuting attorney of Webster county.

Mr. Berkley was one of the leaders on the Homer side in April, 1856, during the exciting election, which resulted in the moving of the county seat to Fort Dodge. After Hamilton county was created out of the east part of Webster county, Mr. Berkley remained in Homer for a while and later moved to Webster City, where he remained until after the close of the Civil war.

At the beginning of the war, Mr. Berkley and others made an earnest effort to organize a company in Hamilton county. It was not until about August 20, 1861, that a sufficient number of men was collected to muster a company. They were organized as Company F, Second Iowa cavalry and Granville Berkley was appointed captain. He was mustered out October 29, 1862. Mr. Berkley belonged to the Know Nothing party, and after establishing a lodge at Homer, he succeeded in starting one at Fort Dodge. He afterward removed to Boulder, Colorado, where he made his home until his death in July, 1884.

Judge WILLIAM PIERCE was the first county judge of Webster county, and as such he wielded irresponsible but almost absolute power as the executive and judicial officer of the county. He was one of the "Forty-niners," as we call that little group of men and women who were the first settlers in this county a century ago. Two brothers, the Pierces, came from Wales to New York city. One stayed in New York and the other went south. William Pierce was one of the southern branch. It is said that Thomas G. Pierce, father of William Pierce, moved from North Carolina to Tennessee, and then lived in Christian county, Kentucky, for a period. While living in Kentucky the Pierces became rank abolitionists and one of them freed his slaves, which greatly angered his slave-owning neighbors and they were told to "get out of the country." Indiana having been admitted into the Union as a free state, Thomas G. Pierce with his family crossed the Ohio river in 1822, and settled near Columbus, Indiana.

In 1836, a wagon train was made up to go from this community in Indiana to western Missouri to form a settlement. Among them were Thomas G. Pierce and his family. They came by way of St. Louis, then a frontier town, and followed the trail through Arkansas. William Pierce, then only a boy, was sent back to Tennessee by his father to stay with an aunt and get some

schooling. He wanted to study law and was sent to this plantation several winters in order to go to school. In Missouri, this group from Indiana made their settlement in the Ozarks, in a neighborhood made famous by Harold Bell Wright in his "Shepherd of the Hills." At first the schools were held in private homes. Later William Pierce taught in the newly-built log schoolhouse. The Pierces remained in Missouri thirteen years, and then, the new country of Iowa having been painted in such glowing colors, a little band decided to leave their pleasant Ozark homes and venture into Iowa. Fourteen families lined up for the trip. They followed what we now call the Daniel Boone trail and finally reached the forks of the Boone river, where it empties into the Des Moines river in the southeastern corner of Webster county. Here that little band of "Forty-niners" built their cabins on what was then the frontier of civilization. There was no other settlement beyond in the entire northwest. William Pierce seems to have taken a prominent part in those pioneer days as his name is mentioned often. During the first winter, school for the children of the settlement was held in his house and his wife was the teacher. The first church in what is now Webster township was organized in 1852, at his house, by a Methodist circuit rider.

After Yell and Risley counties were united under the name of Webster county, the first election was held April 4, 1853, at the home of William Pierce, which was a short distance southwest of where Homer was afterward located, near the county line between the two counties. William Pierce was elected county judge to hold office until the general election to be held the first Monday in August, 1853. At the August election he was again elected county judge and served until he resigned in 1855. Under Judge Pierce's administration county organization really became effective, the county seat was located, the boundaries of new townships were fixed, and the first county and district courts were held. Judge

Pierce was one of the commissioners who located the state road from Fort Dodge to Fort Des Moines over which the Northwestern State company afterward ran its line between the towns above named. Judge Pierce died at his home in Webster township June 26, 1870.

Judge CAVE J. MCFARLAND was the first judge to preside over the district court in Webster county. We find no record of his early life; the first mention was in 1848, when he was a member of the Iowa House of Representatives and the matter of the removal of the state capitol from Iowa City came up for discussion. The commissioners who had been appointed selected five acres in Jasper county and laid out "Monroe City" and held a sale of town lots. When the report of the commissioners was read in the house there was great indignation on the part of the members, among whom Mr. McFarland was the most outspoken, and the report was rejected.

He lived for a number of years in Lee county, but early in the fifties removed to Boonesboro, where he soon became a candidate for judge of the Fifth judicial district, the formation of which he had loudly opposed in the legislature. Judge McKay's successor was to be elected in 1854, and Mr. McFarland was among the leading candidates. P. M. Casady was elected, but in a short time resigned and Governor Hempstead appointed Mr. McFarland to fill the vacancy, it is said for political reasons. The next spring Judge McFarland became the Democratic nominee against Judge W. W. Williamson who was supported by the Whigs. The election was contested, but finally was awarded to Judge McFarland. Judge McFarland presided at the first district court in Webster county held at Homer in the fall of 1854, and also at the first court held in Fort Dodge in August, 1856, after the county seat had been moved there.

Judge McFarland is usually referred to as "the eccentric Judge McFarland," but the many anecdotes told concerning him shows that he drank after the manner of

the times and that he indulged pretty freely at times. It is said that he was the most unique character that ever presided over an Iowa court. He was a man of magnificent personal appearance, very tall, strong and well-proportioned. He wore a luxuriant beard, which he allowed to grow at full length and of which he was somewhat vain. He was a delegate to the national Democratic convention in 1856, and it is said that his striking appearance and manner attracted general attention. On the bench, Judge McFarland usually presided with force and propriety. He had an excellent legal mind, plenty of good common sense, but depended mostly upon impulse and first impressions for his decisions. It may be said, however, that the decisions taken as a whole, stood the test of review on appeal better than those of many judges more eminent and learned. Many of the anecdotes concerning him occurred while he was holding court in Webster county. The old settlers never tired of telling stories concerning him. While often referred to as "Old Judge McFarland", yet he died at the age of thirty-nine.

Judge JOHN D. MAXWELL was born in Washington county, Virginia, in 1808. He removed to Tennessee and later to Edgar county, Illinois, near Paris, where he resided until 1854, when he settled in that part of Webster county which is now Hamilton county. Although not knowing where he was educated or admitted to the bar, he always was referred to as a lawyer. He was elected county judge of Webster county August 6, 1855, after a very spirited contest. The people of Homer voted for Wm. N. Meservey and the citizens of Fort Dodge and New Castle, now Webster City, voted for Maxwell. Notwithstanding that Mr. Maxwell was clearly elected by a majority of twenty, the canvassers at this election, being Homer men, gave Meservey the certificate of election. Judge Maxwell entered a contest, but afterward dropped it, as the office was not a valuable one so far as the salary was concerned. Mr. Meservey had taken a change

of venue to try the case in Pottawattamie county and no one felt disposed to incur the expense of carrying the matter further. In April, 1856, John D. Maxwell and John F. Duncombe had the famous wrestling match which decided the moving of the county seat from Homer to Fort Dodge, according to the legend that has been handed down by the old settlers. Maxwell fought for Homer and Duncombe for Fort Dodge and Duncombe won. Whether or not Duncombe got a half nelson or scissors hold on Maxwell must always be a subject for conjecture, but Maxwell declared to his dying day that Duncombe tripped him.

In accordance with the law creating Hamilton county, the first election of officers of the new county was held on the first Monday in April, 1857, at which time John D. Maxwell was elected county judge of Hamilton county. He was re-elected at the October election of the same year. Upon Judge Maxwell most important duties devolved. He not only settled all matters of joint interest with Webster county, but it became his duty to organize Hamilton county and set all of its machinery in motion. The transcribing of the records was one of these most important labors which was performed under his direction and supervision. As in all new counties, vexatious questions arose about the building of a court house, the removal of the county seat, the construction of bridges, the location of roads, etc., upon which men took sides as their interests were affected.

During the two and a half years through which Judge Maxwell held this most laborious and thankless office, he was the subject of much criticism. He was attacked and abused in a most shameful manner in the *Freeman* by Granville Berkley. He was accused of a lavish and prodigal and unlawful expenditure of the county funds in the way of paying high salaries (\$400.00 per year) to the judge, treasurer, etc. A fierce newspaper controversy resulted and Judge Maxwell became the most talked about and abused man in the county. Judge Maxwell's

private life was upright and praiseworthy in all respects. He was a man of decided opinions to which he gave expression with the greatest freedom. He was a fine talker, possessing a large fund of anecdote and information, and genial, kindly and friendly in his ways. He died at his home in Webster City on November 4, 1882, respected and esteemed by the entire community.

Judge WILLIAM N. MESERVEY was born in Dearborn county, Indiana, November 16, 1820. At the age of ten years his family removed to Cincinnati, Ohio, and while there he received a common school education.

On leaving school he was employed in a wholesale dry goods store in Cincinnati until he was twenty years of age. He then studied law in the office of Amos Lane of Lawrenceburg, Indiana. Amos Lane was the father of the well-known James H. Lane of Kansas. In 1843, Mr. Meservey was admitted to the bar in Cincinnati, and practiced in New Orleans until 1845. He then came west and settled in Clinton, DeWitt county, Illinois, where he acquired a prominent position. In 1853, he came to Homer, then the county seat of what is now Webster and Hamilton counties. His family followed the next year. He was elected county judge of Webster county April 5, 1855, and was filling that position when the county seat was moved from Homer to Fort Dodge. He was violently opposed to the removal and did all he could to prevent it. However, he followed the county seat and moved to Fort Dodge with his family in 1856, and made it his home the remainder of his life. He was again elected county judge October 11, 1859.

In 1858, he formed a law partnership with George W. Bassett which continued until 1861. In 1862 he was appointed to a position in the United States treasury department with headquarters at Monroe, Louisiana, and remained there about four years. He returned to Fort Dodge at the close of the war. In addition to practicing his profession, he devoted much of his time to the sale of land. He was land agent for Thomas Snell and handled

fifty thousand acres of land in Webster and Hamilton counties. He also assumed editorial control of the *Fort Dodge Messenger*, which he conducted until June 4, 1874, when he sold his interest in that paper to Albert and Paulina Swalm.

In February, 1877, he became editor-in-chief and manager of the *Webster County Gazette*, a Republican newspaper. He made it one of the strongest and most widely-circulated journals in western Iowa. He was a fluent orator, an instructive writer, and his editorials were ably written, and treated in broad and impartial manner the questions claiming public attention. Judge Meservey had been raised and educated as a Democrat and was one of that party's strongest supporters until the Civil war when he changed his political views and was ever after one of the strongest and most active Republicans. As a politician and journalist Judge Meservey was outspoken and fearless, never concealing his convictions for policy, but always commending what he considered right and always denouncing in plain and forcible language what he considered wrong. These characteristics were very marked and of necessity made many political enemies. Yet out of these contests, he never cherished any personal animosity toward even the most bitter and malignant of his opponents. Upon the bench, Judge Meservey's knowledge of the law was applied with equity of the points in litigation, and his decisions were always fair and impartial. Judge Meservey was a gentleman of intelligence, pleasing manners, and his hospitality and genial sociability rendered his home the attractive resort of his friends and neighbors. He had a host of friends in Washington where he visited and was well known there in social and political circles. In all public enterprises having for their object the material prosperity of his city and county, Judge Meservey always took a prominent part and in his death Fort Dodge lost one of her best and most enterprising citizens. The office of county judge was the only civil office he ever held. He

was a member of the Masonic and Odd Fellows orders. Judge Meservey died September 21, 1878.

GEORGE B. SHERMAN was born in Sandgate, Bennington county, Vermont, January (or June) 7, 1833. He lived on a farm until sixteen years of age. From 1848 to 1850, he attended school at the Troy Conference academy, and in 1852 he entered Bethany College at Bethany, Virginia (afterward West Virginia), and graduated July 4, 1854. Mr. Sherman came to Fort Dodge in October, 1854, and then returned to Vermont for a short time. He settled permanently in Fort Dodge in April, 1855. His first employment was as a clerk in the store conducted by Major William Williams, who had been sutler for the troops and had opened a store in one of the buildings formerly belonging to the barracks. After Mr. Sherman left the employ of Major Williams, he and N. B. Morrison formed a partnership and erected a store building for their use. This was the first store built after the town was laid out, and they went into the timber and cut the logs from which the lumber and shingles were made. It was finished in November, 1855, and they began business. They had a general merchandise stock which would probably have invoiced at fifteen hundred dollars. In 1857, they were forced to discontinue business on account of the hard times and the financial depression of 1857, but in 1860, Mr. Sherman entered the same line of business again, in which he remained until the spring of 1863.

At that time he went to Washington, D. C., and occupied a position in the office of the first comptroller of the currency in the United States treasury department until 1869. While in Washington he attended Columbia law college and was graduated from that institution in 1866, and was admitted to practice in the courts of the District of Columbia. Mr. Sherman returned to Fort Dodge in the fall of 1869 and opened a law office and practiced his profession for a number of years. At one time he was a partner of M. D. O'Connell, the firm name

being O'Connell & Sherman. In 1871, Mr. Sherman was elected mayor of Fort Dodge and served one term. He was the second mayor, succeeding Major Williams who had been mayor since the incorporation of the town up to 1871 when his age and feeble health compelled him to refuse to continue in the office. The confinement of office life did not agree with Mr. Sherman and he accepted an appointment as route agent in the postal service in December, 1872. His duties were performed between Fort Dodge and Sioux City. In the fall of 1876 he was elected justice of the peace for Wahkonsa township. Mr. Sherman was always prominent in the early days at Fort Dodge and was a member of the Spirit Lake Expedition of 1857, serving as commissary. He died in Fort Dodge December 1, 1909.

GEORGE W. BRIZEE was a young lawyer who came to Fort Dodge in 1855, and considered a gifted young man. In an autobiography appearing in the Centennial History of Webster county he tells his own life story. He said that he was born at Catskill, in Greene county, New York, and, being unmarried, he would not give the date of his birth. He attended a select school kept by R. L. Ross for many years in his native town. He then attended an academy in Salem, Washington county, and Ball seminary in Hoosick Falls kept by R. L. Lord, son of President Lord of Dartmouth college. He said he looked at Williamstown college in Massachusetts, and afterwards at Union, Schenectady, and that neither President Mark Hopkins of the former, nor Dr. Nott of the latter admired him, and that the tutors were equally perverse. He was admitted to the bar first in New York, then in Vermont, next in Illinois, and then came to Fort Dodge in 1855, and was admitted to the bar there in 1857.

In July, 1858, Mr. Brizee was one of the attorneys for the defense in the first murder trial in Webster county. An array of pioneer legal talent fought the case which was tried in the old Wahkonsa hotel before County Judge

L. L. Pease. Charles B. Richards, the prosecuting attorney, George Richards, John F. Duncombe and W. N. Meserve appeared for the prosecution. It took two days to get in the testimony and hear the arguments, but what promised to be a sensational trial came to an abrupt end when the accused and his father, who had signed his bond, disappeared at night leaving no trace and driving with them a fine cow which they had promised Mr. Brizee for his services. Mr. Brizee was a private in Company "A" of the Spirit Lake expedition. In March, 1859, he started for Colorado and did well, but was out of means before he left there. During the war he was first in an Iowa regiment and afterward in the 43rd Missouri. He said he was not ashamed of his record in that regiment. After the war he said he had been to the Colorado mines three times and always made money, but money and himself never could keep company long. Mr. Brizee seems to have devoted more time to journalism than to his profession of law. He said that he had been connected with the following journals as contributor, or correspondent: *Vermont Gazette* of Bennington, Vermont; the *Chicago Times*; and correspondent from Colorado for the *New York Times*. At intervals of two years he was editor of the *Fort Dodge Sentinel*, the first newspaper in Fort Dodge.

In 1864, he was editor-in-chief of the *Daily News* of St. Joseph, Missouri. He also served as editor of the *Sunday Herald* of Troy, New York, *The Whitehall Times* of New York, and the *Saturday Bulletin* of Troy, New York. He was the assistant editor of the *Des Moines Times*, the *Peru Sentinel* of Peru, Indiana, and the *LaPorte Chronicle* of LaPorte, Indiana. Another phase of his journalistic career was his work on the *Chicago Post*, where he said he was a partner of R. P. Hamilton, a grandson of Alexander Hamilton. In 1875, he was editor-in-chief of the *Peru Daily Times* of Peru, Indiana. In 1876, he came again to Fort Dodge and compiled the Centennial History of Webster county, by E. G. Morgan.

Mr. Brizee wrote the biographical sketches and appendix, and also the anecdotes of early days. Details of his life after leaving Fort Dodge are not available, but the many references to him in the stories of early days indicate that he took a prominent part in Fort Dodge's early history during the few years he was there.

HEZEKIAH BEECHER was born in the town of Bethany, New Haven county, Connecticut, on June 19, 1824. He came from a sturdy New England stock. He received his academic education at Cheshire academy from which he graduated with honor after a course of three years. Soon afterward he entered Yale college and graduated from the law department in 1852. He was admitted to the Litchfield bar in January, 1854. He then entered the law office of G. H. Hollister in Litchfield, Connecticut, and remained there until the fall of 1854. From Connecticut he went to Chicago, and after stopping there a few months, he emigrated to Des Moines. March 28, 1855, he came to Fort Dodge and was among the first citizens of the town which had just been platted the year before. Not finding any room in which to display his library, he burned a kiln of lime near the railroad bridge and built a house on what is now First Avenue North, between Third and Fourth streets. He engaged in the practice of law, entering land, and caring for the real estate of non-residents. For a number of years he was associated with John F. Duncombe in his law business.

Mr. Beecher was one of the most active of the persons who worked to have the county seat moved from Homer to Fort Dodge in 1856. He was one of Fort Dodge's foremost pioneer citizens and filled many local official positions. In 1862 he was elected clerk of the district court of Webster county; in 1871 he was elected a member of the board of supervisors, and in 1872 he was mayor of Fort Dodge. Later he entered the real estate and insurance business and also conducted an abstract of titles office. When South Dakota was opened for

settlement in 1881, he moved to that territory, and in the spring of 1886 his family joined him and settled at Redfield, South Dakota. Soon after settling there he was appointed clerk of the court by the governor, which position he held up to the time of his death there in 1887.

JOHN FRANCIS DUNCOMBE was born on a farm in Erie county, Pennsylvania, near Waterford, October 22, 1831. He was a descendant of an old English family, the names of many of whose members are worthily found in the famous "Dictionary of National Biography." Some of them were knighted and elected to the British Parliament. His great-grandfather, Charles Duncombe, founder of the American branch of the family was a Revolutionary patriot. From his large fortune he contributed over \$60,000 in aid of the colonists. His son, grandfather of John F., was a volunteer soldier in the War of 1812. Mr. Duncombe's father was a farmer, and it was upon the home farm that his early boyhood was spent and his early education was acquired in a log school house. He remained at home until he was sixteen years old, working on the farm in the summers and attending the district school in the winters. He was then sent to Allegheny college at Meadville, Pennsylvania, where he pursued his studies for three years. At the expiration of that time he studied for a while in Center college in Danville, Kentucky, where he graduated with high honors in the class of June, 1852, before he was twenty-one years of age. He then returned to Allegheny college where he was graduated the same year. Subsequently the latter institution conferred upon him the degree of Master of Arts. During his college course, Mr. Duncombe taught school in the winter months to earn money with which to meet his college expenses. Before he was seventeen he commenced teaching in the public schools. He taught in the Waterford academy three winters.

He had commenced reading law in the office of H. A. Richmond at Meadville, and completed his law studies at

Erie, Pennsylvania, in the office of John C. Marshall and John M. Vincent. He was admitted to the bar of Pennsylvania, at Erie, in 1853, when he was twenty-two years of age. After a year's experience at the bar in Erie, he borrowed \$300 from his father, surrendered his interest in the paternal estate, and, with that small sum as his entire fortune, boldly struck out for the west to make his own way in the world. Much of the land in this part of Iowa then belonged to the government, and had not been surveyed into sections and placed on the market for sale, but Mr. Duncombe's keen foresight enabled him to recognize the possibilities and opportunities of the newly-settled area, and he decided to remain in Iowa. Before he came to Fort Dodge in April, 1855, he had platted the town site of Sac City on July 4, 1854, and named it Austin in honor of one of the first settlers there. The name was afterward changed to Sac City. Although the pioneers had little money and seldom indulged in litigation, he "hung out his shingle" as the first attorney at law in Fort Dodge. He became at once a moving spirit in the community. He was one of the leaders in the project which resulted in moving the county seat of Webster county from Homer to Fort Dodge. It was a bitter fight between the north and south ends of the county and was finally settled by a wrestling match between John F. Duncombe and John D. Maxwell of Homer, in which Mr. Duncombe was the winner.

Mr. Duncombe was a member of the Spirit Lake expedition of March, 1857, being captain of Company "B", one of the two companies which Fort Dodge furnished to go to the relief of the settlers at Spirit Lake after the massacre. The part he took in this expedition, which is unparalleled in Iowa history for bravery and endurance, was unsurpassed by any of the other members of that little band of heroes. One incident in this expedition was the saving of the life of Mr. Duncombe by John N. Maxwell, son of John D. Maxwell with whom

Mr. Duncombe had the wrestling match which decided the location of the county seat. He became the editor of the *Fort Dodge Sentinel*, the pioneer journal of northwestern Iowa. Later still, he published and edited the *Fort Dodge Democrat*. He was a vigorous and outspoken editor, fearless and aggressive. In later years he contributed to the *Fort Dodge Chronicle*, which he owned, but which was published by his sons, William E., and Charles F. Duncombe. His avocation as a journalist began early and continued long, but he never allowed it to interfere materially with his chosen profession, the law.

Always a Democrat, Mr. Duncombe soon rose to a commanding position in his party. In 1857, the Fort Dodge district, as it was commonly called, comprised nineteen counties in northwestern Iowa. The honor of representing the district in congress was contested by Mr. Duncombe, Democrat, and Cyrus C. Carpenter, Republican. This pioneer contest was conducted with unusual ability and energy. Both were men of rare strength and endurance and each was in full flush of vigorous manhood. A few years before, the contest would have been one-sided, as the state was originally Democratic, but in 1857 the Republicans were beginning to feel their strength and Carpenter was elected by a very small majority. In 1859, Mr. Duncombe was elected to the state senate from the thirty-second senatorial district which was composed of twenty-three counties in northwest Iowa and equalled in area one-fourth of the entire state. He served in the sessions of 1860 and 1862, being re-elected a second time. His incisive intellect and learning made him invaluable in perfecting the revision of the code of 1860. He was twice elected to the house in 1871 and 1879. On January 9, 1872, when ex-Senator Duncombe, elected on the Democratic ticket in a Republican district, was sworn in as a member of the house of representatives of the Fourteenth General Assembly, there were more than seventy Republicans in the house

and only about a score of Democrats. Though he was politically in a hopeless minority at a time when political lines were drawn more closely than they are at present, Mr. Duncombe's legal ability and evident purpose to serve the state to the full measure of his opportunity were recognized by the majority and in the deliberations of the senate and house his impress was made upon legislation. As a legislator he was well informed, resourceful, bold, and aggressive, and generally successful, except in partisan measures.

In 1872, Mr. Duncombe was chairman of the Iowa delegation to the national Democratic convention which nominated Mr. Greeley, and again in 1892 he was chairman of the Iowa delegation at the Chicago convention which nominated President Cleveland, although he went there as the friend and advocate of Governor Boies and made a powerful speech presenting that gentleman's name to the convention. From 1881 to 1889, Mr. Duncombe enjoyed the distinction of being lecturer on railroad law on the law faculty of the State University of Iowa. He was for eighteen years a regent of the state university. He was given the degree of LL.D. by Griswold college. He was also elected the first president of the Pioneer Lawmakers' Association in Des Moines, February 25, 1886. In 1893, Mr. Duncombe was selected as a member of the Iowa Columbian commission and did serviceable work in making the Iowa building and Iowa's part in the exposition a credit to the state. He was one of the incorporators of the Iowa Falls & Sioux City railroad (now the Illinois Central), the Mason City & Fort Dodge railroad (now the Chicago Great Western), the Fort Dodge & Fort Ridgely railroad (now the Minneapolis & St. Louis) and all other lines projected to enter Fort Dodge. He was one of the first to develop the coal mining interests in this section of Iowa, in which business he was a partner of Charles B. Richards for many years. In the early 70's he built the Duncombe hotel, the principal hotel in Fort Dodge for many years.

It is located on the old public square and is now known as the Eiler's hotel. His most successful business enterprise was no doubt the manufacture of stucco and other products from the gypsum beds adjacent to Fort Dodge. He was also a large farmer and dealer in lands. As a lawyer, Mr. Duncombe took a place at the head of his profession from the very first. His commanding ability and his extensive reading and working knowledge of the law brought him into prominence, and he was soon counted one of the foremost attorneys in Iowa. For thirty-seven years he acted as attorney for the Iowa division of the Illinois Central railroad, and he served in the same capacity for the Mason City & Fort Dodge, the Des Moines & Fort Dodge, and the Cherokee & Dakota railroads. He practiced in twenty-five counties in the state. Mr. Duncombe had been seriously injured in a runaway some time before his death, and had never recovered from the effects. He died at his home in Fort Dodge, August 2, 1902. In his memory, a larger-than-life bronze statue of Mr. Duncombe has been erected in the city park (known to old settlers as the public square), by the will of his daughter, Mary Duncombe Kenyon. It is the work of Leonard Ciunelli, a Chicago sculptor.

A. M. DAWLEY was born in Chillicothe, Ross county, Ohio, May 19, 1830, and was reared to manhood in his native state and supplemented his early education acquired in the public schools by a course in Mann college, being graduated from the law department. He afterward removed to LaSalle, Illinois, where he spent some time in the study of law. About 1852 he removed to Granville, Illinois. In February, 1855, he was married to Miss Ellen Parker, removing to Fort Dodge, Iowa, April 7. Mr. Dawley brought with him a stock of dry goods and opened a store in a log cabin standing near the foot of Market street, now known as Central avenue, and then lived in a small shed addition for a few weeks. He later built the first frame house in Fort Dodge on the present site of the Duncombe hotel (now called the Eilers

hotel) hauling the lumber from Boone. At the first election in Fort Dodge, held in April, 1856, in the old log schoolhouse built by the troops, Mr. Dawley was elected the first justice of the peace for Waukonsa township. In the fall of 1857, Mr. Dawley sold his store with the purpose of pursuing the study and the practice of law.

In 1869, he received President Grant's appointment to the position of registrar of the United States land office at Fort Dodge in which capacity he served during 1869 and 1870. He also for a time operated a large farm about three miles north of Fort Dodge. In the meantime he was devoting his leisure to the study of law and at the end of his term in the land office he was ready for admission to the bar, after which he began active practice, continuing through his remaining years. He was recognized as an able and learned attorney, earnest and eloquent in his oratory. He was a prominent factor in political circles, an effective public speaker, strong in his convictions, patriotic and fearless in his citizenship, and a man of great force of character.

He was a member of the Universalist church. The last years of his life were mostly spent in aiding in the movement to secure legislation in behalf of the Des Moines river land settlers. This kept him the greater part of his time in Washington, D. C. The river land bill, for which he had labored so long, passed the House of Representatives the day before his death. He died in Washington February 24, 1885, and his remains were brought to fort Dodge for burial.

JOHN GARAGHTY was born in Lancaster, Ohio, April 23, 1813. After receiving his early education in the public schools, he read law with W. H. Hunter of that city and afterward became his partner. He was admitted to the bar in 1835. After the organization of Lancaster as a city, he became its first mayor in 1853. At the close of his term of office as mayor, Mr. Garaghty, with his wife, who was a niece of Thomas Ewing, moved to the

new frontier town of Fort Dodge, where he entered upon the practice of his profession. He arrived in May, 1855, and immediately erected a log house and preserved his library, while he spent his time burning lime and getting together the materials for a brick house which he erected the next year. This was the first brick residence that was erected in Fort Dodge.

January 1, 1861, the office of county judge was abolished and supervisors for the several townships were elected. Mr. Garaghty had been elected November 6, 1860, supervisor for Wahkonsa township, and was among the first to occupy the position. Mr. Garaghty was one of the founders of the Roman Catholic church in Fort Dodge and of the Catholic school. Governor Carpenter wrote of Mr. Garaghty as follows:

He was a playmate and boyhood friend of Gen. William Sherman and John Sherman. He was a poet and well-read lawyer, but lacked the aggressive force necessary to fight his way in the court room. But in the preparation of cases and orderly arrangement of papers, he had no superior at the bar. He was devoted to his family, loved his church, was a true patriot and an honest man.

Mr. Garaghty was a very good poet and many of his poems have been preserved among the writings of early days. He died in Kansas July 3, 1896.

Judge SAMUEL REES was born November 7, 1817, in Hamilton county, Ohio, a son of Samuel and Elizabeth (McDaniels) Rees. His father was reared a Quaker, but his mother was of Scotch Presbyterian ancestry. When twelve years of age, Mr. Rees worked on a farm and two years later clerked in the wholesale store of Avery, Sharpless & Co. of Cincinnati, Ohio, to learn the details of business. In 1832, this business failed and was closed. Afterward Mr. Rees alternately read law, taught school and boated on the Ohio and Mississippi rivers. In May, 1854, he started for California, but reaching Des Moines decided to remain and opened business as a land agent. When the land office was opened in Fort Dodge in September or October, 1855,

Mr. Rees went there to represent the real estate firm of Hoyt Sherman & Co. of Des Moines. Afterward he was associated at different times with Angus McBane, W. W. Marlatt and William M. Grant in the banking, real estate, and insurance business. Shortly after his arrival, Mr. Rees opened a vein of coal about one mile below Fort Dodge on the east side of the river.

Mr. Rees was elected April 6, 1857, county judge of Webster county, from which office he resigned August 3, 1857. He was elected state representative October 11, 1859, and in 1867 he was an independent candidate for the assembly from the counties of Webster, Calhoun, Pocahontas, and Humboldt and was re-elected. He was again returned to the legislature in 1875. The next year he became the Democratic candidate for congress in this district, but was defeated by Addison Olliver. Judge Rees had been identified with the Democratic party since attaining his majority. In 1877, Judge Rees was elected mayor of Fort Dodge, and in 1878 and 1890, he was elected supervisor of district number three of Webster county. He was one of the representative early business men of Fort Dodge and was well liked. He was a member of the Presbyterian church and Masonic bodies. In 1891, Judge Rees removed to Omaha, Nebraska, where he died April 23, 1897.

CHARLES BENEDICT RICHARDS was born in Warrensburg, Warren county, New York, August 13, 1833. His father was Peletiah Richards and his mother was one of the famous Benedict family that has become historical from the great numbers of clergymen, teachers and jurists who sprung from it. The genealogical trees of the family, as well as that of Mrs. Charles B. Richards (nee Olcott) have their roots far back in English history. Six brothers of the Richards' family of Revolutionary times were in the Continental army. One of the six was the grandfather of Mr. Richards. In his boyhood, Mr. Richards attended school at North Greenville, Glen Falls, and Kinderhook. He finally entered the Polytechnic In-

stitute at Troy, from which he graduated in 1854. He studied law with Joshua A. Spencer of Utica, one of the most eminent men of that day. He was admitted to the bar and practiced in his native town for a while, but in 1856 he removed to Fort Dodge.

Mr. Richards was a member of the Spirit Lake expedition of March, 1857, being the captain of Company "A", one of the two companies which Fort Dodge furnished to go to the relief of the settlers and bury the dead at Spirit Lake. The details of this expedition and the bravery of the officers and men on this terrible march have been preserved in the history of the state and need not be recounted at this time, except to say that Captain Richards' record of courage and endurance was unsurpassed. In telling about this expedition later, Governor Carpenter, who was a member of Company "A", said that he remembered the picture of Captain Richards with two or three others of the men cutting wood, punching the fire, and baking pancakes until long after midnight. As they would get enough baked for a meal they would waken some tired and hungry man and give him his supper. Many of the men were so exhausted that they lay down without eating. Captain Richards froze his cheeks so badly that the scars remained. After the return of the expedition, Governor Grimes sent Mr. Richards a commission as commissary general, authorizing him to represent him in all matters pertaining to the protection of the northwestern frontier of Iowa. A petition of the settlers near Spirit Lake was laid before Governor Grimes, the then retiring governor, and Governor Lowe, who was just inaugurated, asking the state for protection. January 15, 1858, the day after Governor Lowe was inaugurated, he issued to Mr. Richards a commission as commissary general and acting pay master general, with rank of colonel. A bill was passed by the legislature at once authorizing the governor to accept and put in service a company of mounted men to be known as the "Frontier Guards." A company was organized in Web-

ster and Hamilton counties and the governor ordered the captain of the company to receive from Colonel Richards all orders and to report to him.

Mr. Richards continued to practice his profession for eight or nine years with very marked success, but gradually drifted into other business enterprises of a general nature. He organized the First National bank of Fort Dodge, owning about one-half of the stock. He afterward became very heavily engaged in the coal business, in which John F. Duncombe was his partner. August 5, 1856, Mr. Richards was elected prosecuting attorney of Webster county for two years, and later he was appointed registrar of the United States land office in Fort Dodge, which position he held for eight years. In 1877 or 1878, his coal business proved disastrous and he lost almost his entire fortune. Instead of losing courage, he started out to regain his position in the business world and it was not long before he was again at the front. He started out for Colorado where he either discovered or acquired possession of valuable mines. These he was able to put into a joint stock company which built large refining works at Pueblo. This enterprise became wonderfully successful, bringing him a large and permanent income. Just after this good luck came to him he went to San Diego, California, where he purchased lots and lands. With one of his sons, he started a vineyard of raisin grapes and other fruits which became a very profitable investment. Good fortune seems to have smiled upon him from all directions, and it was said that he became a millionaire. Mr. Richards died in San Diego, California.

JOHN M. STOCKDALE was born in Pennsylvania, and was admitted to the bar in that state in 1852. He was elected to the state legislature of Pennsylvania in 1854. In September, 1857, he came to Fort Dodge, having been appointed by President Buchanan registrar of the government land office at that place. He held that office until 1861. He was prominent in the early history of

Fort Dodge and was well known by the people of northwestern Iowa. Attempts had been made by speculators from Fort Dodge to have county seats established in northwestern Iowa at various places. They bought land and lots in the towns sought to be made county seats hoping to make a profit on the sale of the land. In 1859, an attempt was made to establish a county seat in Palo Alto county. The promoter was Mr. Stockdale who represented a syndicate of speculators from Fort Dodge.

Mr. Stockdale was a cousin of Gov. Samuel J. Kirkwood, and hence a man of some political influence. He succeeded in having men who were favorable to his plans appointed as locating commissioners. These were appointed by the judge of the Fifth judicial district and one of them was Cyrus C. Carpenter afterward governor. In January, 1859, they located the county seat on the town plat of Paoli. Small county buildings were erected at this point, but the new town did not prove attractive and it was soon abandoned. Mr. Stockdale was a very active politician and an eloquent public speaker. He resided in Fort Dodge until 1865. In later years he adopted the profession of journalism and was at the time of his death conducting the *Washington Review and Examiner*, of Washington, Pennsylvania. Mr. Stockdale died at his home in Washington, Pennsylvania, September 17, 1897.

Judge JAMES R. STROW was born June 19, 1820, at Weatherfield, Windsor county, Vermont, son of Reuben and Elizabeth (McEwen) Strow, the former of English and the latter of Scotch descent. He passed his childhood days at Weatherfield. Upon reaching maturity he began the study of law in Charleston, New Hampshire, where he also taught school. He graduated from the law department of the University of Ballston, Spa, New York, and was admitted to the bar at Schenectady, New York, in 1850. Mr. Strow commenced to practice in New York city where he resided until August, 1855, when in company with his brother, John D. Strow, he came west

and located in Fort Dodge. After coming to Fort Dodge the brothers engaged in the real estate and loan business and were associated in business during a long and successful career. In politics James R. Strow was formerly a Whig, and since the organization of the Republican party, he was an ardent supporter of that party. He was elected justice of the peace and was acting in that capacity September 2, 1861, when he swore in the Civil war volunteers in Fort Dodge. October 8, 1867, he was elected county judge of Webster county, the last of the county judges to serve therein. He died in Fort Dodge August 17, 1889.

Judge JAMES D. THOMPSON was born in 1832 in New York state. He lived with his parents on a farm until seventeen years of age, when he went to Niagara county and taught school. At the close of his school in the spring of 1850, he resumed his studies at the Academy at Fredonia, and in his leisure hours read law. In 1854, he removed to Iowa, and on the evening of June 15, he walked into Eldora with his satchel on his back and soon opened a law office. At the next regular election he was elected prosecuting attorney, and in the summer of 1855, he became county judge of Hardin county upon the resignation of Judge Alexander Smith.

March 22, 1856, the *Hardin County Sentinel*, an independent newspaper, was established by local citizens with Judge Thompson as editor. April 6, 1857, Judge Thompson was elected the first judge of the Thirteenth judicial district which was created in March, 1857, and to which Webster county was added February 24, 1858. Judge Thompson served in the Civil war, having raised in 1861 Company "G" of the First Iowa cavalry which he commanded. He was mustered out in 1864. In 1874, Judge Thompson closed his law office at Eldora and removed to California in 1875.

GEORGE W. BASSETT was born in western Canada in 1827. His maternal grandfather was a soldier of the American Revolution and a member of congress during

Washington's administration. He lost an arm at the battle of Bennington. Mr. Bassett's parents returned to the United States when he was a child and settled in the west. He entered Wabash college when a young man, earning money by manual labor to pay his way while pursuing his studies. After finishing his course at Wabash, he entered the law school at Cincinnati. After graduating there, he went to Des Moines in 1856, and entered the law office of John A. Kasson. In 1858 he came to Fort Dodge and formed a law partnership with Judge Wm. N. Meservey which continued until 1861, when he enlisted in the Union army in a Fort Dodge company which was attached to the 11th Pennsylvania Cavalry. He served in the army of the Potomac as a lieutenant of his company. He was twice wounded in battle and so disabled that he was honorably discharged in 1862.

Mr. Bassett returned to Fort Dodge and in the fall of 1863 was elected on the Republican ticket to the state senate, representing the forty-third district which then embraced twenty-eight counties of northwestern Iowa—more than one-third of the entire territory of the state. His district extended from the east line of Hancock county to the Missouri river at Sioux City, and from the south line of Harrison county to Minnesota on the north. He served with marked ability in the Tenth and Eleventh General Assemblies. He was for nearly twenty years general agent for the lease and sale of lands embraced in the Agricultural college grant to Iowa, and conducted that business successfully, handling more than 200,000 acres to the satisfaction of the state and college. He was one of the incorporators and builders of the Fort Dodge & Fort Ridgely Railroad at a crisis in the growth of Fort Dodge. He was one of the founders of the Fort Dodge public library and, together with Witter H. Johnston, gave the use of a room without rent for the first library. For nearly thirty years he was also one of the early members and a supporter of the First Presbyterian

church. Failing health required a milder climate, and in 1886 he removed to California, and finally located in Los Angeles. He died at Elsinore, California, February 6, 1896.

Judge JOHN PORTER was born in Washington county, Pennsylvania, April 14, 1828. In 1836 he accompanied his parents to Ohio where he attended school. He later studied law at Warren, Ohio, and was admitted to the bar in 1851. In 1854 he removed to Plymouth, Indiana, where he practiced law until he moved to Mason City, Iowa, in 1856. He was admitted to the bar of Iowa at the first session of the district court held in Cerro Gordo county, June 15, 1857, that county then being a part of the Tenth judicial district. On October 12, 1858, he was elected judge of the district court in the then new Eleventh judicial district. He evidently proved to be a good judge for he was re-elected in 1862 and continued to hold the office until he resigned in April, 1866. In 1859, he changed his residence to Eldora, and after his resignation from the bench he entered the practice of law at Eldora. For some time he was a partner of Charles E. Albrook who later became a judge in the Eleventh judicial district. Judge Porter served as mayor of Eldora for a number of years. He died at Boise, Idaho, September 25, 1913, and was buried at Eldora, Iowa.

Judge JAMES W. MCKENZIE was born in Ohio, July 2, 1843. Little is available about his early life, except that he was a soldier in the Civil war and took part in the defense of Allatoona. This was one of the most sanguinary battles of the war. Judge McKenzie was a soldier who "waved the answer back to Sherman" from Allatoona to Kennesaw Mountain with remarkable coolness and accuracy under sharp fire. The message was flagged from the top of the fort, and enemy sharpshooters were still firing on them. This battle inspired the words of the old hymn "Hold the fort, for I am coming." Judge McKenzie was a resident of Hampton in Franklin county when he was elected judge of the Eleventh judicial district in 1878,

to succeed Judge Isaac J. Mitchell. He died while in office from the effects of his army service.

WILLIAM PETERS HEPBURN was the first district attorney for the Eleventh judicial district, which was established in 1858. He was born in Wellsville, Columbiana county, Ohio, November 4, 1833. His father, who was a physician, when away from home at New Orleans, heroically helping fight a scourge of cholera prevailing there, died before his son's birth. The widowed mother married George S. Hampton and with young Hepburn they came in 1841, to a farm eight miles northwest of Iowa City. In 1843, they removed to Iowa City, Mr. Hampton becoming clerk of the supreme court and Mrs. Hampton principal of the female department of Mechanic's Academy. Here young Hepburn had the advantage of attending good private schools, one being taught by James Harlan, later United States senator.

In 1849, Mr. Hepburn began work as an apprentice in the printing office of the *Iowa City Republican*, the editor being Dr. S. M. Ballard. He pursued this employment over three years. In after life he often said his education was obtained in common schools and in a printing office. In 1853, he read law with William Penn Clark for a year. He then spent a year in Chicago with a prominent law firm, was admitted to the bar, and then returned to Iowa City in 1855. In February, 1856, he removed to Marshalltown and commenced practice. In the spring of 1856, he attended at Iowa City the first Republican state convention held in Iowa, and the political alliance of his lifetime became fixed. In the fall of 1856, he was elected prosecuting attorney for Marshall county, having run on the Republican ticket. In December of that year he was elected one of the clerks of the Iowa house of representatives, it being the last session held in the old capitol at Iowa City. In January, 1858, he was elected chief clerk of the Iowa house of Representatives, that being the first general assembly meeting at Des Moines.

In the fall of 1858 he was elected district attorney for the new Eleventh judicial district consisting of eleven counties in northern Iowa. Mr. Hepburn at that time was quite a young man, in appearance a mere boy. Magnetic and prepossessing, he was a young man of remarkable natural brilliancy. His chief characteristics were a nervous stirring eloquence, flashing wit, and an inexhaustible supply of caustic sarcasm. In 1860, Mr. Hepburn was a delegate to the Republican national convention at Chicago. He served as district attorney from January, 1859, until August 1861, when he resigned to enter the Union army. Having been authorized by Governor Kirkwood, he raised a company of cavalry which was mustered in as Company "B" Second Iowa cavalry and was elected captain. He was advanced to the rank of lieutenant colonel, serving much of the time on the staffs of Generals Sheridan, Rosencrans, and others. He served at different times as a judge advocate of general courts-martial and also as inspector of cavalry. In 1864 he was in command of a cavalry brigade.

From the fall of 1864 to June, 1867, he resided in Memphis, Tennessee, being engaged in the practice of law and in business. On the latter date he removed to Clarinda, Iowa, to become part owner and the editor of the *Clarinda Herald*. That fall he went on the stump for the Republican ticket and quickly acquired political acquaintance and leadership. He also soon opened a law office, abandoned his newspaper work, and until he went to congress in 1881, his law business was active and profitable. In 1872 he advocated the election of Horace Greeley, but soon thereafter was again within the ranks of the Republican party. In 1876 he was a presidential elector-at-large, elected on the Republican ticket. He had become an acknowledged power on the stump.

In 1880 he was nominated for congress on the 385th ballot by the Republicans in his district. He was elected, and re-elected to the two succeeding congresses, but in

1886 he was defeated by Albert R. Anderson in a very memorable campaign, the issue being largely railroad legislation. From 1888 to 1893, he was solicitor of the treasury. In the fall of 1892, he was again elected to congress and re-elected regularly to the seven subsequent congresses. In the election of 1908, he was defeated for congress by Wm. D. Jamieson. Retiring from congress in March, 1909, he opened a law office in Washington in December of that year and for the few following years had a number of important cases. Mr. Hepburn's great work was accomplished as a congressman. He was a constructive legislator, the author of the "Hepburn Rate Law," also the "Pure Food and Public Health Act" of the 59th congress, both considered measures of paramount importance. Mr. Hepburn died at his home in Clarinda, February 7, 1916.

Judge LUTHER L. PEASE was the second county judge of Webster county to be elected after the county seat was moved from Homer. He was a doctor by profession and lived at Homer until he removed to Fort Dodge. He was elected August 3, 1857, and served two years. In April, 1858, he submitted to the citizens of the county a proposition to build a court house in Fort Dodge. Although it was carried by a majority of votes, a violent opposition was made by the citizens in the south part of the county who wanted the county seat moved to Border Plains. Judge Pease was forced to make many decisions which displeased his former friends in Homer. The first murder trial in Webster county was before Judge Pease and was held in the old Wahkonsa hotel which was formerly the general quarters of the troops.

One of the historical landmarks of Fort Dodge, built in 1857 by Judge Pease, still stands on the southwest corner of First avenue north and Fourth street. The brick were hauled by team from Dubuque. While the first court house was being built, the circuit court was held in the upper story. In one corner of the basement was the post office and in another, the first drug store

in Fort Dodge. In 1872, Dr. Pease of Mt. Vernon was appointed by Governor Carpenter as a member of the committee to visit the hospitals for the insane under the act of the Fourteenth General Assembly.

Judge JOHN H. BRADLEY was born in Connecticut May 9, 1837. He came to Iowa in 1856, and located at Iowa City where he read law and was admitted to the bar in 1857. In 1862, he removed to Marshalltown where he practiced law. He entered into partnership with Obed Caswell in 1864. In 1866, he was appointed district attorney by the governor to fill the vacancy caused by the resignation of D. D. Chase of Webster City. Mr. Bradley held the office of district attorney for six years. In the fall of 1872, he was elected judge of the circuit court of the Eleventh judicial district to succeed Judge S. L. Rose. He began his work in January, 1873, was re-elected in 1876 and served until January, 1881. Judge Bradley represented James Wilson (Tama Jim) in the election contest in the Fifth congressional district in 1882. He is said to have been a very able lawyer.

THEODORE HAWLEY was born in Delta, New York, in 1827. He attended Hamilton college in New York, from which institution he was graduated with honors. He first came to Fort Dodge prior to 1860, as he was married that year and brought his bride from New York state to Fort Dodge, where he had already established himself as a lawyer. The last lap of the journey was made by stagecoach. In 1868, Mr. Hawley was elected state senator and was re-elected in 1870. He was a staunch Republican, and refused at one time to let his name be put on the Democratic ticket as a candidate for judge. In 1872 he served as deputy United States marshal.

In the year 1889, he made a donation of 150 volumes to the Fort Dodge public library, which had just been established. More than one hundred of these were bound volumes of magazines, making the most valuable donation it had received. Mr. Hawley owned considerable

land in Fort Dodge and was one of the proprietors of Hawley & Meservey's addition to Fort Dodge, in the southeast part of the city. In 1893, Mr. Hawley and family removed to Denver, Colorado, through the influence of his son, Harry W. Hawley, and he resided there until his death in 1911.

Judge DAVID D. MIRACLE was born in London, Ontario, January 23, 1840. He was a son of Hiram and Mary (Delameter) Miracle, natives of New York state. His ancestors were of Holland descent and among the early settlers of the Mohawk valley, coming to this country early in the sixteenth century. David D. Miracle's youth was spent in attending school in his native city. Before reaching his majority, with his parents he settled in Oshkosh, Winnebago county, Wisconsin, where he taught school for a while. He attended Lawrence university at Appleton, Wisconsin, and the law department of the state university at Ann Arbor, Michigan. After this he read law in the office of C. Coolbaugh of Oshkosh. In April, 1864, he was admitted to the bar, and the following May came to Webster City, Iowa, and engaged in the practice of law.

In 1868, he formed a partnership with R. N. Woodworth in the real estate business in connection with his profession. August 1, 1870, he formed a partnership with J. L. Kamrar which continued successfully until January 1, 1880, when he took his seat as judge of the circuit court of the Eleventh judicial district of Iowa, to which office he had been elected the previous fall. He filled this position with credit to himself until 1887, when the office of circuit judge was abolished by law. He was then elected judge of the Eleventh judicial district of Iowa, which office he was filling at the time of his death at Webster City, July 29, 1888.

A concluding installment of this review of the bar of Webster county will appear in a subsequent issue of the ANNALS. It will include accounts of the lives of leaders of more recent date, among such being Judge Daniel C. Chase, Jonathan P. Dolliver, Judge John L. Stevens, Capt. Joseph A. O. Yeoman, the Healys, M. D. O'Connell, Frank H. Helsell, Robt. M. Wright, Wm. S. Kenyon and numerous others.

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